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1 A bill to be entitled
2 An act relating to performing arts centers; amending s.
3 212.20, F.S.; providing an alternative requirement for the
4 Department of Revenue to distribute certain sales tax
5 proceeds to certain performing arts centers rather than to
6 certain sports franchise facilities under certain
7 circumstances; providing for construction; providing a
8 limitation; creating s. 288.163, F.S.; providing
9 definitions; requiring the Office of Tourism, Trade, and
10 Economic Development to screen applicants and approve or
11 deny applications for certification as performing arts
12 centers for funding purposes; requiring the office to
13 establish certain procedures and guidelines; providing
14 criteria for the certification of performing arts centers;
15 specifying ineligibility of certain applicants for
16 additional certification; limiting the number of
17 facilities certified by the office; specifying public
18 purpose uses of certain funds; requiring the office to
19 notify the department of performing arts center
20 certifications; authorizing the department to conduct
21 audits to verify certain expenditures; authorizing the
22 department to pursue recovery of certain funds under
23 certain circumstances; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (d) of subsection (6) of section
28 212.20, Florida Statutes, is amended to read:

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29 | 212.20 Funds collected, disposition; additional powers of
30 | department; operational expense; refund of taxes adjudicated
31 | unconstitutionally collected.—

32 | (6) Distribution of all proceeds under this chapter and s.
33 | 202.18(1)(b) and (2)(b) shall be as follows:

34 | (d) The proceeds of all other taxes and fees imposed
35 | pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
36 | and (2)(b) shall be distributed as follows:

37 | 1. In any fiscal year, the greater of \$500 million, minus
38 | an amount equal to 4.6 percent of the proceeds of the taxes
39 | collected pursuant to chapter 201, or 5.2 percent of all other
40 | taxes and fees imposed pursuant to this chapter or remitted
41 | pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
42 | monthly installments into the General Revenue Fund.

43 | 2. After the distribution under subparagraph 1., 8.814
44 | percent of the amount remitted by a sales tax dealer located
45 | within a participating county pursuant to s. 218.61 shall be
46 | transferred into the Local Government Half-cent Sales Tax
47 | Clearing Trust Fund. Beginning July 1, 2003, the amount to be
48 | transferred shall be reduced by 0.1 percent, and the department
49 | shall distribute this amount to the Public Employees Relations
50 | Commission Trust Fund less \$5,000 each month, which shall be
51 | added to the amount calculated in subparagraph 3. and
52 | distributed accordingly.

53 | 3. After the distribution under subparagraphs 1. and 2.,
54 | 0.095 percent shall be transferred to the Local Government Half-
55 | cent Sales Tax Clearing Trust Fund and distributed pursuant to
56 | s. 218.65.

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57 4. After the distributions under subparagraphs 1., 2., and
58 3., 2.0440 percent of the available proceeds shall be
59 transferred monthly to the Revenue Sharing Trust Fund for
60 Counties pursuant to s. 218.215.

61 5. After the distributions under subparagraphs 1., 2., and
62 3., 1.3409 percent of the available proceeds shall be
63 transferred monthly to the Revenue Sharing Trust Fund for
64 Municipalities pursuant to s. 218.215. If the total revenue to
65 be distributed pursuant to this subparagraph is at least as
66 great as the amount due from the Revenue Sharing Trust Fund for
67 Municipalities and the former Municipal Financial Assistance
68 Trust Fund in state fiscal year 1999-2000, no municipality shall
69 receive less than the amount due from the Revenue Sharing Trust
70 Fund for Municipalities and the former Municipal Financial
71 Assistance Trust Fund in state fiscal year 1999-2000. If the
72 total proceeds to be distributed are less than the amount
73 received in combination from the Revenue Sharing Trust Fund for
74 Municipalities and the former Municipal Financial Assistance
75 Trust Fund in state fiscal year 1999-2000, each municipality
76 shall receive an amount proportionate to the amount it was due
77 in state fiscal year 1999-2000.

78 6. Of the remaining proceeds:

79 a. In each fiscal year, the sum of \$29,915,500 shall be
80 divided into as many equal parts as there are counties in the
81 state, and one part shall be distributed to each county. The
82 distribution among the several counties must begin each fiscal
83 year on or before January 5th and continue monthly for a total
84 of 4 months. If a local or special law required that any moneys

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85 accruing to a county in fiscal year 1999-2000 under the then-
86 existing provisions of s. 550.135 be paid directly to the
87 district school board, special district, or a municipal
88 government, such payment must continue until the local or
89 special law is amended or repealed. The state covenants with
90 holders of bonds or other instruments of indebtedness issued by
91 local governments, special districts, or district school boards
92 before July 1, 2000, that it is not the intent of this
93 subparagraph to adversely affect the rights of those holders or
94 relieve local governments, special districts, or district school
95 boards of the duty to meet their obligations as a result of
96 previous pledges or assignments or trusts entered into which
97 obligated funds received from the distribution to county
98 governments under then-existing s. 550.135. This distribution
99 specifically is in lieu of funds distributed under s. 550.135
100 before July 1, 2000.

101 b. (I) The department shall distribute \$166,667 monthly
102 pursuant to s. 288.1162 to each applicant certified as a
103 facility for a new or retained professional sports franchise
104 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
105 monthly by the department to each certified applicant as defined
106 in s. 288.11621 for a facility for a spring training franchise.
107 However, not more than \$416,670 may be distributed monthly in
108 the aggregate to all certified applicants for facilities for
109 spring training franchises. Distributions begin 60 days after
110 such certification and continue for not more than 30 years,
111 except as otherwise provided in s. 288.11621. A certified
112 applicant identified in this sub-sub-subparagraph ~~sub-~~

113 ~~subparagraph~~ may not receive more in distributions than expended
 114 by the applicant for the public purposes provided for in s.
 115 288.1162(5) or s. 288.11621(3); or

116 (II) The department shall distribute the amount certified
 117 under s. 288.163, not to exceed equal monthly installments of
 118 \$166,667 per applicant, among each of the applicants certified
 119 as a performing arts center under s. 288.163. Distributions
 120 shall begin 60 days after such certification or July 1, 2012,
 121 whichever occurs later, and shall continue for not more than 30
 122 years. This sub-sub-subparagraph does not authorize an applicant
 123 certified under s. 288.163 to receive distributions that exceed
 124 the amounts actually expended by the applicant for the public
 125 purposes provided for in s. 288.163.

126 c. Beginning 30 days after notice by the Office of
 127 Tourism, Trade, and Economic Development to the Department of
 128 Revenue that an applicant has been certified as the professional
 129 golf hall of fame pursuant to s. 288.1168 and is open to the
 130 public, \$166,667 shall be distributed monthly, for up to 300
 131 months, to the applicant.

132 d. Beginning 30 days after notice by the Office of
 133 Tourism, Trade, and Economic Development to the Department of
 134 Revenue that the applicant has been certified as the
 135 International Game Fish Association World Center facility
 136 pursuant to s. 288.1169, and the facility is open to the public,
 137 \$83,333 shall be distributed monthly, for up to 168 months, to
 138 the applicant. This distribution is subject to reduction
 139 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be
 140 made, after certification and before July 1, 2000.

141 7. All other proceeds must remain in the General Revenue
 142 Fund.

143 Section 2. Section 288.163, Florida Statutes, is created
 144 to read:

145 288.163 Performing arts centers; certification; duties.-

146 (1) As used in this section, the term:

147 (a) "Office" means the Office of Tourism, Trade, and
 148 Economic Development.

149 (b) "Performing arts center" means a facility that
 150 consists of one or more theaters, each having 3,500 or fewer
 151 seats; that presents live theater, live opera, live ballet, or
 152 other performance events; and that is owned and operated by a
 153 unit of local government.

154 (c) "Unit of local government" has the same meaning as
 155 provided in s. 218.369.

156 (2) The office shall screen applicants and approve or deny
 157 applications for certification as a performing arts center for
 158 state funding provided under s. 212.20(6)(d)6.b.(II). The office
 159 shall establish procedures and guidelines for receiving and
 160 processing applications for certification as a performing arts
 161 center.

162 (3) In order for the office to certify an applicant as a
 163 performing arts center eligible for funding under s.
 164 212.20(6)(d)6.b.(II), the applicant must provide the office
 165 with:

166 (a) Proof that a unit of local government is responsible
 167 for the construction, maintenance, or operation of the
 168 performing arts center, or holds title to or a leasehold

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169 interest in the property on which the performing arts center is
170 located, and that the applicant is or will be the owner, tenant,
171 or operator of the performing arts center.

172 (b) Projections that demonstrate that the performing arts
173 center will attract a paid attendance of more than 150,000
174 annually.

175 (c) An independent analysis or study that demonstrates
176 that the effect on the economy of the local community as a
177 result of the construction or renovation and the operation of
178 the performing arts center, as well as revenues projected to be
179 generated by the taxes imposed under chapter 212 with respect to
180 the use and operation of the performing arts center and events
181 and activities on center premises, will exceed \$60 million over
182 30 years.

183 (d) A demonstration that the applicant has provided, is
184 capable of providing, or has financial or other commitments to
185 provide more than one-half of the costs incurred or related to
186 the improvement and development of the facility.

187 (e) A resolution adopted, after a public hearing, by the
188 unit of local government within whose geographic boundary the
189 performing arts center is located which certifies that funding
190 under s. 212.20(6)(d)6.b.(II) for the performing arts center
191 serves a public purpose.

192 (4) The office must deny any additional application for
193 certification from any applicant previously certified under this
194 section.

195 (5) (a) Beginning with the 2012-2013 fiscal year, the
196 office may certify no more than two facilities as performing

197 arts centers eligible for funding under s. 212.20(6)(d)6.b.(II).

198 (b) Beginning with the 2015-2016 fiscal year, the office
 199 may certify no more than eight facilities as performing arts
 200 centers eligible for funding under s. 212.20(6)(d)6.b.(II).

201 (6) An applicant certified as a performing arts center and
 202 certified for funding must use funds provided under s.
 203 212.20(6)(d)6.b.(II) exclusively for the public purposes of:

204 (a) Paying for the acquisition, construction,
 205 reconstruction, renovation, capital improvement, or maintenance
 206 of the performing arts center or any ancillary facilities,
 207 including, but not limited to, parking structures, meeting
 208 rooms, and retail and concession space.

209 (b) Paying or pledging for the payment of debt service on,
 210 or funding debt service reserve funds, arbitrage rebate
 211 obligations, or other amounts payable with respect to, bonds or
 212 other indebtedness issued on or after January 1, 2009, for the
 213 acquisition, construction, reconstruction, renovation, or
 214 capital improvement of the performing arts center or any
 215 ancillary facilities.

216 (c) Reimbursing costs for refinancing bonds or other
 217 indebtedness, including the payment of any interest and
 218 prepayment premium or penalty on such indebtedness, issued for
 219 the acquisition, construction, reconstruction, renovation, or
 220 capital improvement of the performing arts center or any
 221 ancillary facilities.

222 (7) The office shall notify the Department of Revenue of
 223 any facility certified by the office as a performing arts center
 224 that is eligible for funding under s. 212.20(6)(d)6.b.(II).

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225 (8) The Department of Revenue may conduct audits as
226 provided in s. 213.34 to verify that the distributions made
227 under this section are expended as required in this section. If
228 the department determines that the distributions made under this
229 section are not expended as required by this section, the
230 department may pursue recovery of the funds under the laws and
231 rules governing the assessment of taxes.

232 Section 3. This act shall take effect July 1, 2011.